

Exhibit 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**MEGHAN McNAMARA,
Plaintiff,**

v.

**YOUR FARE, INC., and
CHRISTOPHER MONK,
Defendants.**

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CAUSE NO. 1:21-cv-00140-LY

**PLAINTIFF'S SUR-REPLY TO DEFENDANTS' RESPONSE TO MOTION TO
COMPEL DISCOVERY RESPONSES AND REQUEST FOR SANCTIONS**

Plaintiff files this Sur-Reply to Defendants' Response to Plaintiff's Motion to Compel Discovery Responses and Request for Sanctions, as follows:

On August 24, 2021, Plaintiff filed a Motion to Compel Discovery Responses and Request for Sanctions [Dkt. 20] pursuant to Federal Rule of Civil Procedure 37(a)(3)(A) and (B) because, as of the date of the filing of the Motion, Defendants had: a) failed to serve any Initial Disclosures as required by Federal Rule of Civil Procedure 26(a), and b) failed to serve any responses or objections to Plaintiff's properly served First Interrogatories to Defendants, First Requests for Admissions to Defendant YourFare, and First Requests for Production of Documents to Defendants.

On August 30, 2021, Defendants filed a two-page Response to Plaintiff's Motion [Dkt. 21]. In their Response, Defendants stated that Defendants "will produce everything Plaintiff requests by 5:00 p.m. this Friday, September 3, 2021," and "[i]f that does not happen, then Defendants agree that Plaintiff should get all the relief she seeks in her motion."

Defendants failed to serve any disclosures or responses to Plaintiff's discovery requests by September 3, 2021 – and, as of the date of submission of this Sur-Reply, have still not served any

disclosures or responses to Plaintiff's discovery requests. Moreover, counsel for Plaintiff has not received any communication from counsel for Defendants since the filing of their Response to Plaintiff's Motion.

To be frank with the Court, the undersigned is dumb-founded by Defendants' complete failure to serve any disclosures or responses to Plaintiff's discovery requests – even after the filing of Plaintiff's Motion to Compel and Request for Sanctions – as the undersigned has never encountered such complete disregard for the federal discovery rules during the more than 25 years in which he has been in the practice of law.

As a result of Defendants' continued refusal to serve disclosures and responses to Plaintiff's discovery responses, Plaintiff should be granted "all the relief she seeks in her motion" in accordance with Defendants' statement to the Court in their Response, and based upon all the reasons set forth in Plaintiff's Motion and previously filed Reply [Dkt. 22].

Counsel for Plaintiff has been required to spend an additional hour and a half of billable time in preparing this Sur-Reply and the accompanying Motion for Leave, which is also based on a conservative accounting of counsel for Plaintiff's actual time, such that Plaintiff's attorneys' fees incurred are now in excess of \$3,825.

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully requests that the Court:

1. grant Plaintiff's Motion to Compel Discovery Responses and Request for Sanctions in its entirety;
2. order Defendants to serve on Plaintiff the initial disclosures required by FRCP 26(a) within seven (7) days of the Court's Order;
3. order that Plaintiff's First Requests for Admissions to Defendant YourFare are deemed admitted;

4. order that any objections to Plaintiff's First Interrogatories to Defendants and First Requests for Production of Documents to Defendants are waived;
5. order Defendants to serve on Plaintiff their responses (without any objections thereto) to Plaintiff's First Interrogatories to Defendants and First Requests for Production of Documents to Defendants within seven (7) days of the Court's Order; and
6. after having an opportunity to be heard, order Defendants and their counsel of record, jointly and severally, to pay Plaintiff her reasonable expenses, including attorneys' fees in the amount of \$3,825, within seven (7) days of the Court's Order.

Respectfully submitted,

By: /s/ Edward M. "Ted" Smith

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